IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B.CIVIL WRIT PETITION NO.5362/1997.
S.B.CIVIL WRIT PETITION NO.5421/1997.

16.11.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Ripudaman Singh Naruka]
Mr.Rajendra Prasad]for the petitioners.
Mr.G.S.Gill, Additional Advocate General.

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These writ petitions were originally filed on account of the fact that on the land in dispute, reference of which has been made in para 3 of the writ petition was allotted vide Annexure-1 to the Municipal Council, Sikar by the Collector.

On one portion of the aforesaid land, as shown in the map in the red lines (which has been submitted by the learned Additional Advocate General along with the additional affidavit of Shri Arjun Ram Choudhary, A.D.M., Sikar filed in writ petition No.5362/1997 [Jagdish Soni Vs. The State of Rajasthan & Others] as Annexure-AA/3 filed on 30.10.2006), an office of the District Education Officer was sought to be constructed. The Municipality claimed the aforesaid land on the basis of the allotment letter (Annexure-1) and disputed the right of the District Education Officer, respondent No.3 for raising construction over the said land.

Since the constructions had commenced, the Municipal Council filed the writ petition with the

prayer that the respondents be restrained from interfering with the peaceful use and enjoyment of the land in dispute and to further restrain the respondents from raising construction on the land. A further prayer was made for seeking a direction against the respondents to assist the Municipal Council in the removal of the encroachment upon the land in dispute and entrust the vacant possession of the land to the Municipal Council. Certain other ancillary reliefs were also sought.

In S.B.Civil Writ Petition No.5362/1997 which was filed by one of the citizens stating that he is a Ward Panch of the Municipality and was interested in the aforesaid land. A direction was sought by the petitioner, for declaring the action of the Collector, Sikar in issuing the order dated 24.07.1997 requiring the Municipality to surrender the land in dispute to the Collector, as illegal and arbitrary.

Since both the writ petitions pertain to the same piece of land and in respect of utilization of the land, both of them were ordered to be heard together.

On 30.08.2005, when the matter came up before this court, learned counsel for the petitioners have given out that the land be utilized for the public utility purpose including playground for school and development of a sports complex/stadium. The learned Additional Advocate General sought time to take instructions. In response to the above. When the matter came up before this court on 04.09.2006, it was give out that the stadium had in fact already come up at Sikar which is at the distance of about half a kilometer from the land in

dispute.

Learned counsel for the Municipal Council sought to rely upon the minutes of the meeting held by the High Power Committee, appointed by the Government for the development of this land in which certain decisions were taken in the meeting held on 22.06.2002 but since then nothing further has happened in that behalf. The minutes of the meeting are available as Annexure-A along with affidavit of one Shri Ram Singh Palawat who was the then Municipal Commissioner. The said affidavit has been filed in S.B.Civil Writ Petition No.5421/1997 on 13.10.2005. One of the decisions which was taken in the aforesaid meeting of the High Power Committee is as follows:-

> "यह भी उचित होगा कि खसरा नम्बर 1692 पर हुये अतिक्रमण को नियमित नहीं किया जावे । अतिकर्मियों को नियमानुसार अन्यत्र पुनर्कसित किया जावे तथा मुक्त हुये क्षेत्र में नगर परिषद् द्वारा अपनी योजना की क्रियान्विति सुनिश्चित की जावें।"

However, so far as the constructions being raised for the office of District Education Officer was concerned, no consensus could be arrived at during the course of hearing. Today the learned Additional Advocate General submitted that it is the Policy of the Government now to have a "Mini Secretariat" at District Headquarters where offices of all the departments would be centrally located at one place and for the aforesaid purpose, the Government is planning to utilize the land in dispute in consultation with the Municipal Council, Sikar as the aforesaid land has tentatively found to be the most appropriate place located in the Sikar Town. It is submitted that at the moment the administration is

finding a difficulty since the offices of the Government Department in the Town of Sikar are located at 23 different locations in the city and quite a few of them are being run in the rented accommodation. Therefore, with a view to smoothen and centralize the functioning of the Government Departments it has been considered necessary in public interest to have the offices located in a centralized place and for this purpose the construction of a “Mini Secretariat” has been found to be essential.

In view of the above, as per the stand of the Government even the proposed constructions for the office of the District Education Officer would not be gone ahead as that would hamper proper utilization of the land since the proposed constructions which as per the plan (Annexure-AAA/3) submitted by the respondents is located somewhere in the middle of the land in dispute.

In view of the above statement of the learned Additional Advocate General there is, therefore, no necessity for this court to issue any direction restraining the respondents from raising construction of the office of the District Education Officer as was prayed for in the present writ petition.

So far as the dispute with regard to the land is concerned for getting the same vacated by the authority of the respondents and handing over the same to the Municipality is concerned, in view of the statement of the learned Additional Advocate General regarding the prospective use which the Government wants to make of

the land in dispute, I do not consider it necessary to give any directions as the High Power Committee has already recorded in its minutes of the meeting held on 22.06.2002 that the land in dispute which was allotted to the Municipal Council vide Annexure-1 be got vacated from the encroachments of the persons who are in occupation by rehabilitating them elsewhere. This is a conscious decision of the Government and no directions in that behalf are required to be passed by this court, though, it may be stated that for the purpose of rehabilitation it is expected that both, the Municipal Council as well as the State Government machinery would act together and in the first place demarcate a suitable site for rehabilitation of these persons. For the purposes of rehabilitation, the land be sub-divided into small plots and necessary infrastructure of lanes, electricity, water and sanitation be also provided so that it does not develop into a slum area. Otherwise, it would result into removal of one slum for the creation of another. Necessary identification of the persons entitled to be rehabilitated be also done in advance so that persons who are in actual occupation may be rehabilitated in accordance with the Policy of the Government and as per the Rules of the allotment of such piece of land to the entitled persons.

So far as the plan of the Government for the development of Mini Secretariat for Centralized Office of the Government Department at the District Headquarters is concerned, since the land in dispute, as per the petitioner, was allotted to the Municipal Council vide Annexure-1, it is expected that the Government, if it wants to utilize the land of the

Municipal Council, would take possession of the land according to law.

In view of the above, no further directions are required to be issued in the matter by this court. These writ petitions as well as the stay applications accordingly stand disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.